

**BOARD OF ENVIRONMENTAL PROTECTION**  
**Meeting Minutes**

February 21, 2008

A meeting of the Board of Environmental Protection was held on Thursday, February 21, 2008 at the Holiday Inn / Ground Round, Augusta, Maine. Ernest Hilton, Chair, called the meeting to order at 09:00 a.m. with the following individuals present:

**Board:** Ernest Hilton, M. Wing Goodale, Richard Gould, Don Guimond, Susan Lessard, and Nancy Ziegler.

Absent: Elizabeth Ehrenfeld and Matt Scott. There are two vacancies.

<b><u>Staff:</u></b>	Office of the Commissioner	Peter Carney
	Office of the Commissioner	Suzanne Watson
	Bureau of Remediation and Waste Management	Karen Knuuti
	Bureau of Remediation and Waste Management	Scott Austin
	Bureau of Air Quality	Bryce Sproul

**Others:** David Littell, Commissioner  
Cindy Bertocci, BEP Executive Analyst  
Mary Sauer, Assistant Attorney General

***(Meeting adjourned at approximately 1:30 p.m.)***

**I. DEPARTMENTAL**

**A. COMMISSIONER'S COMMENTS:** Commissioner Littell reported the following:

Work Load: Commissioner Littell reported that the Department anticipates receiving applications for a large number of projects in the next 12 months including: CMP reliability connector, 2 or 3 LNG (liquefied natural gas) projects, as many as 5 to 7 wind power projects, and Phase 5 of the Maritimes Northeast pipeline. Maritimes Northeast has filed with FERC for an expansion of its pipeline to accommodate product from an additional gas field in the Maritimes. He noted that the Department has only 14 licensing staff for land issues.

Legislation: A number of bills continue to work their way through the Committee. The Department received an initial unanimous vote from the Committee on the vernal pool bill, but it is not yet final.

Board member Hilton asked about the limited number of land licensing staff and expressed his appreciation for the significant amount of work that they do.

Board member Ziegler asked about the number of large projects anticipated in 2008 and the likelihood that certain projects would be recommended for Board jurisdiction. *Commissioner Littell responded that he anticipates that the Board will assume jurisdiction over the applications for the LNG facilities – not sure about transmission. If the recommendations of the Wind Power Task Force are adopted by the Legislature, the wind power projects will be processed at the staff level, with any appeals heard by the Board.*

Board member Lessard asked about the status of the HoltraChem matter.

*Commissioner Littell stated that the Department is still working on the matter. If a hearing is required, he anticipates that it will require 5 to 6 days.*

**B. COMMENTS FROM THE BEP CHAIR:** None

**C. EXECUTIVE ANALYST COMMENTS:**

Ms. Bertocci reported that the Joint Standing Committee on Marine Resources will be reviewing the reports submitted by the Department of Marine Resources and DEP on passage of native diadromous fish, and the Board's report on the petition process at a work session on Monday, February 25, 2008. Ms. Bertocci will review the Board's petition process with the Committee.

**D. BOARD CALENDAR:** Reviewed

**E. DEPARTMENTAL ORDERS:** Reviewed

**F. EXECUTIVE SESSION:** None

## II CONSENT AGENDA ITEMS

Board voted (6-0-0-2) on a motion to approve consent agenda items number 1 and 2 as presented.

*Board members Ernest Hilton, M. Wing Goodale, Richard Gould, Don Guimond, Susan Lessard and Nancy Ziegler voted to support the motion. Board members Elizabeth Ehrenfeld and Matt Scott were absent. There are two vacancies.*

1. Minutes: November 1, 2007
2. Minutes: November 15, 2007

Board voted (5-0-1-2) on a motion to approve consent agenda item number 3 as presented.

*Board members Ernest Hilton, M. Wing Goodale, Richard Gould, Don Guimond, and Susan Lessard voted to support the motion. Board member Nancy Ziegler abstained. Board members Elizabeth Ehrenfeld and Matt Scott were absent. There are two vacancies.*

3. Minutes: December 6, 2007.

Board voted (6-0-0-2) on a motion to approve consent agenda item 4 with the following amendment:

Amend the first sentence of Finding #7 as follows: Pursuant to ~~a request made by the Department on February 16, 2007~~ the terms of its license, RSE now handles boiler ash in an enclosed building, not outdoors.

*Board members Ernest Hilton, M. Wing Goodale, Richard Gould, Don Guimond, Susan Lessard and Nancy Ziegler voted to support the motion. Board members Elizabeth Ehrenfeld and Matt Scott were absent. There are two vacancies.*

4. RED SHIELD ENVIRONMENTAL LLC, Old Town - Administrative Consent Agreement (BRWM, Air)

Board voted (6-0-0-2) on a motion to approve consent agenda items 5 and 6 as presented.

*Board members Ernest Hilton, M. Wing Goodale, Richard Gould, Don Guimond, Susan Lessard and Nancy Ziegler voted to support the motion. Board members Elizabeth Ehrenfeld and Matt Scott were absent. There are two vacancies*

5. NEW HERITAGE BUILDERS, Inc, Old Orchard Beach - Administrative Consent Agreement / Stormwater (BLWQ)
6. KEMPTON TOBEY & SON, Inc., China. - Administrative Consent Agreement / Site Law (BLWQ)

### III. Regular Agenda

1. CHAPTER 900, BIOMEDICAL WASTE MANAGEMENT RULES - PROGRAM REVENUE AND EXPENSE ANALYSIS / AMENDMENTS (post to 30 day written public comment)

Staff: Scott Austin, Bureau of Remediation and Waste Management

The Board voted (6-0-0-2) on a motion to post the proposed amendments for a 30 day written public comment period. The Board voted pursuant to 38 M.R.S.A. Section 341-D(1-B).

*Board members Ernest Hilton, M. Wing Goodale, Richard Gould, Don Guimond, Susan Lessard and Nancy Ziegler voted to support the motion. Board members Elizabeth Ehrenfeld and Matt Scott were absent. There are two vacancies.*

### INFORMATIONAL SESSIONS

- Governor's Task Force on Wind Power
  - David Littell, Commissioner
  - Suzanne Watson, Director of Innovation and Assistance

The Commissioner and Ms. Watson reviewed the mix of electrical generation capacity in New England, cost effectiveness of various sources, potential for wind power in Maine, need for renewable energy sources to meet existing environmental commitments, issues specific to wind power, and the recommendations of the Wind Power Task Force pertaining to processing of applications for wind power facilities.

- Freedom of Access Act
  - Peter Carney, Director of Procedures and Enforcement
  - Mary Sauer, Assistant Attorney General

Mr. Carney and Ms. Sauer reviewed the requirements of statute and the Department's Standard Operating Procedure for responding to Freedom of Access Act requests.

***Next Regular Meeting – Thursday, March 6, 2008 – Holiday Inn / Ground Round***